



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/597,535

06/23/2008

Pierre Rabischong

1429-204

2421

24106 7590 05/08/2009  
EGBERT LAW OFFICES  
412 MAIN STREET, 7TH FLOOR  
HOUSTON, TX 77002

EXAMINER

SQUIRES, BRETT S

ART UNIT

PAPER NUMBER

2431

MAIL DATE

DELIVERY MODE

05/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,535	<b>Applicant(s)</b> RABISCHONG ET AL.	
	<b>Examiner</b> BRETT SQUIRES	<b>Art Unit</b> 2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Objections***

1. Claims 12-17 are objected to because of the following informalities: claim 12 recites "a reader/writer means cooperative with the mobile computer medium, said reader/writer means being a computer," on page 3 lines 5-6 and "a reader/writer means for permitting both reading of data recordable thereon and writing of new data," on page 3 lines 10-11. The recitation of two "reader/writer means," makes it unclear which reader/writer means is being referred to by later recited "said reading/writing means," and "said reader/writer means," recited in dependent claims 15-16. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites "an .ISO image file," with the abbreviation ISO being used to refer to the ISO 9660 file system standard published by the International Organization for Standardization. The recitation of the ISO 9660 standard by claim 12, makes the claim scope uncertain because the standard is subject to update or change. Please make a full citation of the standard being used including the date of the standard for ISO 9660 or remove ".ISO" from claim 12, so that the claim recites "an image file."

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 12 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by avast! Bootable Antivirus & Recovery Tools CD Data Sheet. The examiner has attached the offer for sale of the avast! Bootable Antivirus & Recovery Tools CD that corresponds to the data sheet.

Regarding Claims 12 and 16-17:

The avast! Bootable Antivirus & Recovery Tools CD data sheet discloses at least one mobile computer medium suitable for recording data, the mobile computer medium selected from the group consisting of CD-ROM and DVD-ROM ("CD-RW Medium" See page 1), a reader/writer means cooperative with the mobile computer medium, the reader/writer means being a computer ("Computer" and "CD recorder" See page 1), at least one fixed computer medium suitable for recording data ("Virus Database" See page 1), the fixed computer medium and the mobile computer medium capable of communicating with each other remotely through the computer via a communication network ("avast! BART supports networking as well. After the network support is started, NETBIOS and TCP/IP protocols should be available." See page 1), the mobile computer medium having a reader/writer for permitting both reading of data recordable thereon and writing of new data ("Bootable Antivirus and Recovery Tools" See page 1), the

Art Unit: 2431

reading/writing means having a burning software application ("Builder Part" See page 1) comprising a writing module having a portion with a subset capable of creating an ISO image file ("The builder then creates an ISO image which the user has to burn on a CD, using his CD recorder (ISO image are standard input files in most of the CD burning software today)." See page 1), the burning software application runnable entirely from the mobile computer medium ("The examiner respectfully points out that it is inherent that the bootable disk loads and runs the Antivirus and Recovery Tools.").

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being obvious over avast! Bootable Antivirus & Recovery Tools CD Data Sheet in view of Salisbury (US 2002/0123909).

The avast! Bootable Antivirus & Recovery Tools CD Data Sheet discloses the above stated cd-rw medium containing Antivirus & Recovery Tool (See page 1).

The avast! Bootable Antivirus & Recovery Tools CD Data Sheet does not disclose the Antivirus & Recovery Tools include a means for a user of the mobile computer medium for authorizing or forbidding reading access to the data thereon and for authorizing or forbidding writing of the new data thereon, a means for invalidating the

Art Unit: 2431

mobile computer medium, and the reader/writer means has a means for encrypting and decrypting the data.

Salisbury discloses a CD-ROM based file sharing system having a means for a user of the mobile computer medium for authorizing or forbidding reading access to the data thereon and for authorizing or forbidding writing of the new data thereon ("Personal Identification Number," and "Password," and "The application is accessible only when used with a consumer defined personal identification number." See paragraph 12), a means for invaliding the mobile computer medium ("The application is accessible only when used with a consumer/user defined personal identification number (PIN)." See paragraph 12 [The examiner respectfully points out that the determining if a user has entered the correct PIN make the pocket sized re-write enabled compact disk invalid for use by a user who does not know the correct PIN.]), and the reading/writing means has a means for encrypting and decrypting the data ("The browser based software application is encrypted and password protected." and "An encryption application is imbedded into the browser based software application to accommodate secure transmission via internet and wireless computing devices." See paragraphs 10 and 12).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the avast! Bootable Antivirus & Recovery Tools CD to include the security feature of the CD-ROM based file sharing system discloses by Salisbury in order to prevent readability by those unauthorized to use the avast! Bootable Antivirus & Recovery Tools CD (See Salisbury paragraph 12).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 12-17 have been considered but are not persuasive in view of the new ground(s) of rejection.

In response to the applicants' argument that "the present invention is a CD/DVD-ROM medium that includes the software application capable of burning an amended disk image on the CD/DVD-ROM medium itself," the examiner respectfully points out that the claim language regarding the burning software application only requires the creation of an ISO image file in the memory of the computer the CD/DVD-ROM medium is inserted into. The burning software application is not required to burn the ISO image file onto the CD/DVD-ROM medium and therefore the claim scope includes a user burning an ISO image file created by the burning software application onto the CD/DVD-ROM. The examiner further points out that automating the manual operation of having a user burn an ISO image file to a disk is obvious. See *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA).

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 2431

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRETT SQUIRES whose telephone number is (571) 272-8021. The examiner can normally be reached on 9:30am - 6:00pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2431

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BS/

/Ayaz R. Sheikh/  
Supervisory Patent Examiner, Art Unit 2431